

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HECTOR SANCHEZ LEYVA,

Petitioner,

No. CIV S-05-0031 FCD GGH P

vs.

ROBERT AYERS,

Respondent.

ORDER

A joint scheduling statement in this matter was filed on August 19, 2005, pursuant to the court's order filed June 20, 2005.¹ Respondent seeks leave to file a motion to dismiss the petition on the ground that it is a second or successive petition. Petitioner, therefore, does not anticipate filing a third amended petition at this time. After reviewing the joint statement, the court issues the following ORDERS:

1. Respondent's request to file a motion to dismiss the petition as a second or successive petition is granted and the motion must be filed within 30 days; and

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¹ An extension of time was granted by order filed on July 26, 2005.

2. Petitioner's response to the motion must be filed within 30 days thereafter.

DATED: 10/5/05

/s/ Gregory G. Hollows

GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

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